

Law Offices

HOLLAND & KNIGHT

A Registered Limited Liability Partnership

2100 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20037-3202
202-955-3000
FAX 202-955-5564

DOCKET FILE COPY ORIGINAL

Atlanta	Orlando
Boca Raton	St. Petersburg
Fort Lauderdale	Tallahassee
Jacksonville	Tampa
Lakeland	Washington, D.C.
Miami	West Palm Beach

DAVID A. VAUGHAN
(202) 457-5921

July 18, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

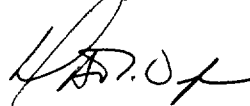
Re: MM Docket No. 87-268
Advanced Television Systems And
Their Impact Upon the Existing
Television Broadcast Service

Dear Mr. Caton:

Transmitted herewith, on behalf of Hubbard Broadcasting, Inc., is an original and four copies of its Opposition to Trinity Christian Center of Santa Ana, Inc. Petition for Reconsideration in the above referenced Docket.

Should there be any questions, please communicate with the undersigned.

Sincerely,



David A. Vaughan
Counsel for
Hubbard Broadcasting, Inc.

DAV:ik
Enclosures

024

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
JUL 18 1997
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Advanced Television Systems)
and Their Impact Upon The Existing)
Television Broadcast Service)

MM Docket No. 87-268

**OPPOSITION TO
TRINITY CHRISTIAN CENTER OF SANTA ANA, INC.
PETITION FOR RECONSIDERATION**

Hubbard Broadcasting, Inc.

Marvin Rosenberg
David Vaughan
Holland & Knight LLP
Suite 400
2100 Pennsylvania Ave., NW
Washington, D.C. 20037-3202
Tel: 202-457-5921

Its Attorneys

July 18, 1997

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Advanced Television Systems)	MM Docket No. 87-268
and Their Impact Upon The Existing)	
Television Broadcast Service)	

**OPPOSITION TO
TRINITY CHRISTIAN CENTER OF SANTA ANA, INC.
PETITION FOR RECONSIDERATION**

Hubbard Broadcasting, Inc. ("Hubbard"), through its attorneys, hereby opposes the June 13, 1997 Petition for Reconsideration ("Petition") of Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network, ("Trinity") in so far as it would affect the DTV allocation assignment of WNYT, Albany, N.Y., licensed to Hubbard.¹

In its Petition, Trinity seeks inter alia the assignment of different paired digital channels for certain full power facilities so that Trinity can continue to operate certain of its translator facilities.² Among the assignments that Trinity seeks to change is that

¹ Oppositions to Trinity's petition as well as certain other petitions are required to be filed July 18, 1997. See FCC Report No. 2207, 62 Fed. Reg. 36066 (July 3, 1997).

² Trinity also seeks reconsideration of the overall DTV allocation scheme and the service replication requirements of the Sixth Report & Order based upon the Petition for Reconsideration filed by Sinclair Broadcast Group, Inc. However, the Sinclair petition does not specifically address low power TV or translator stations or the issues raised by Trinity; instead, the Sinclair petition is concerned with replication of reception within the core business areas of full service facilities. See Petition for Reconsideration, Sinclair Broadcast Group, Inc. (June 13, 1997). To the extent that the Trinity petition would burden WNYT's full service facility, in order to accommodate "secondary" low power and translator TV stations, the Sinclair petition lends no support to Trinity.

of WNYT, Albany, New York which is licensed to Hubbard. Trinity proposes changing WNYT's current allotment from DTV channel 15 to DTV channel 60. See Petition and attached Engineering Statement.

Trinity rests its request upon the proposition that translator and low power TV facilities provide "needed, and otherwise unavailable" service to a significant audience. Trinity therefore proposes that the Commission's assignment of DTV channels in the Sixth Report & Order (Docket No. 87-268) be changed to accommodate 47 translator stations of which Trinity is the licensee or permittee. Trinity represents that its substitutions will not create interference and that it "is believed" that the proposed substitutions will allow affected full power NTSC facilities like WNYT to locate their DTV operations within the three-mile radius of their current sites.

Hubbard opposes Trinity's proposal with respect to WNYT because there is no precedent for having the requirements of translator stations supersede those of full power stations; the Sixth Report & Order provides significant rule changes to accommodate low power stations with respect to the DTV channel allocations to full service TV stations which Trinity has not shown to be insufficient; and assigning DTV channel 60 to WNYT in place of DTV channel 15 will impose burdens upon WNYT that do not exist with respect to DTV channel 15.

TRINITY'S PETITION MUST BE DENIED BECAUSE
IT IS CONTRARY TO THE COMMISSION POLICY

In order to provide all full service TV stations with a DTV channel, the Commission has found that it will be necessary to displace a number of low power and translator operations. Sixth Report & Order, para. 141.³ The Sixth Report & Order therefore explicitly maintains the secondary status of low power stations and takes certain steps to minimize any impact upon such stations. Id., para. 142. More recently, the Commission has reaffirmed this allocation status of low power and translator operations. In the Matter of Reallocation of Television Channels 60-69, the 746-806 MHz Band, paras. 18-20, ET Docket No. 97-157, FCC 97-245 (adopted July 9, 1997) ("Reallocation of TV Channels 60-69").

The Sixth Report & Order is consistent with Commission rules and precedent which have never provided that the requirements of low power or translators should supersede those of full service stations. For example, Commission rules have long prohibited certain operations of low power and TV translator stations that could interfere with full power stations. See 47 CFR 74.705; Sixth Report & Order, para. 118.

Nevertheless, the Sixth Report & Order changes a number of Commission rules to accommodate low power and translator stations during and after the transition to DTV many of which were requested by the low power and translator TV industries. Id.,

³ Citing "Interim Report: Estimate of the Availability of Spectrum for Advanced Television (ATV) in the Existing Broadcast Television Bands," OET Technical Memorandum, FCC/OET TM88-1, August 1988; "Interim Report: Further Studies on the Availability of Spectrum for Advanced Television," OET Technical Memorandum, FCC/OET TM89-1, December 1989; and, "Preliminary Analysis of VHF and UHF Planning Subcommittee Working Party 3, Doc. 0174 (June 1991).

para. 142. These include channel displacement relief and technical rules changes. *Id.*, paras. 144 & 145.

In view of the secondary status of low power and translator TV and the significant accommodations to those industries provided in the Sixth Report & Order and those contemplated therein, the DTV allocation table should not be altered to accommodate the interests of Trinity. This is particularly true since Trinity has not shown why it cannot avail itself of the relief specifically provided for low power and translator stations in the Sixth Report & Order with respect to any of the reassignments it requests much less that of WNYT.

**TRINITY'S PETITION SHOULD BE DENIED BECAUSE IT WOULD
IMPOSE ADDITIONAL AND UNNECESSARY BURDENS UPON HUBBARD.**

The DTV Table of Allotments during the transition to DTV is based upon channels 7-51. If the Commission concludes that channels 2-6 are suitable for DTV, the Commission will consider retaining those channels for DTV and adjusting the final DTV core spectrum to encompass channels 2-46 rather than channels 7-51. See Sixth Report & Order, paras. 84 & 36. A broadcaster whose transition DTV channel falls outside the final DTV core spectrum will be required to relocate within the final DTV core spectrum. *Id.* Under the current DTV Table of Allotments, WNYT is assigned DTV channel 15--no matter whether the final DTV core spectrum is channels 7-51 or 2-47, WNYT would only make one transition to a DTV channel under its current DTV assignment.

In its Petition, however, Trinity requests that WNYT's DTV allotment be changed from DTV channel 15 to DTV channel 60. Such a reassignment would place

WNYT outside the "final DTV core spectrum" no matter whether the final core spectrum is channels 7-51 or 2-46. Thus, under Trinity's proposal, WNYT would be required to transit to DTV channel 60 and then bear the additional burden of switching to a channel within the final DTV core spectrum. Given the secondary status of translator TV stations, this additional burden should not be imposed upon WNYT. This is particularly true in that Trinity's proposal is based in part upon its "belief" and because Trinity has made no showing that it cannot avail itself of the relief provided to or contemplated for translator TV stations by the Sixth Report & Order.

More importantly, the Sixth Report & Order sought to minimize the use of channels 60-69 for DTV purposes during the transition to DTV in order to meet the needs of public safety for additional spectrum, make new technologies and services available to the public, and allow for more efficient use of the spectrum in the 746-806 MHz band. Reallocation of TV Channels 60-69, paras. 1-3. Thus, the DTV Table of Allotments provides for only 15 allotments in the continental United States for DTV stations on channels 60-69. *Id.*

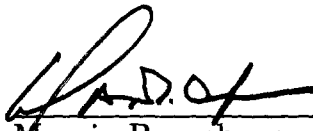
Recently, the Commission has re-emphasized the "urgent need" for additional spectrum to meet public safety needs. *Id.*, para. 3. The Commission, therefore, has commenced a notice of proposed rule making ("NPRM") to reallocate the spectrum at channels 60-69 for purposes other than DTV. *Id.* Trinity's request to reassign WNYT to channel 60 not only would be contrary to the policy of limited DTV channel assignments at channels 60-69 during the DTV transition but would frustrate the NPRM seeking to reallocate channels 60-69 for purposes other than DTV.

CONCLUSION

Hubbard respectfully requests that Trinity's Petition be denied in so far as it would modify the DTV Table of Allotments to reassign WNYT from DTV channels 15 to 60.

Respectfully submitted,

HUBBARD BROADCASTING, INC.

A handwritten signature in black ink, appearing to read "M. Rosenberg", is written over a horizontal line.

Marvin Rosenberg
David Vaughan

Its Attorneys

Holland & Knight LLP
Suite 400
2100 Pennsylvania Ave., NW
Washington, D.C. 200337-3202
Tel: 202-457-5921

July 18, 1997

WAS1-276806.1

CERTIFICATE OF SERVICE

I, Inder Kashyap, do hereby certify that I have caused to be sent this 18th day of July 1997, via first class mail, postage prepaid, a true and correct copy of the foregoing OPPOSITION TO TRINITY CHRISTIAN CENTER OF SANTA ANA, INC.'s PETITION FOR RECONSIDERATION to the following:

Roy J. Stewart
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 314
Washington, D.C. 20554

Bruce A Franca
Alan Stillwell
Federal Communications Commission
2000 M Street, N.W., Room 416
Washington, D.C. 20554

Robert Eckert
Office of Engineering and Technology
Technical Research Branch
Federal Communications Commission
2000 M Street, N.W., Room 270
Washington, DC 20554

Colby M. May
Trinity Christian Center of Santa Ana, Inc.
D/B/A Trinity Broadcasting Network
1000 Thomas Jefferson Street, N.W.
Washington, D.C. 20007

By: _____

Inder Kashyap